IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH
&
THE HONOURABLE MR. JUSTICE HARUN-UL-RASHID

WEDNESDAY, THE 28TH NOVEMBER 2007 / 7TH AGRAHAYANA 1929

LA.App..No. 225 of 2004()

AGAINST THE ORDER DATED 31/05/2003 IN LAR. 148 /1999 IN LAR.149/1999 of III ADDL.SUB COURT, ERNAKULAM

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APPELLANT:

STATE OF KERALA

BY GOVERNMENT PLEADER SMT.K.R.DEEPA

RESPONDENTS: CLAIMANTS.
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1. L.SIVANANDAN, S/O.LAKSHMANAN, DEEPA BHAVAN, MUTTATHU HOUSE, ERNAKULAM.

2. G.C.D.A., KADAVANTHARA, KOCHI- 20.

BY ADV. SRI.P.R.RAMACHANDRA MENON, SC,GCDA
SRI.K.C.CHARLES

THIS LAND ACQUISITION APPEAL HAVING BEEN FINALLY HEARD ON 28/11/2007, ALONG WITH LAA NO.847 OF 2004 THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

KURIAN JOSEPH & HARUN-UL-RASHID, JJ.

L.A.A.Nos.225 & 847 of 2004

Dated this the 28th day of November, 2007

JUDGMENT

Harun-Ul-Rashid,J.

Both the appeals arise from the common judgment in L.A.R.Nos.149/1999 and 148/1999 respectively on the file of the Sub Court, Ernakulam.

2. In L.A.R.No.148/1999 an extent of 2.55 Ares and in L.A.R.No.149/1999 2 Ares belonging to the respective claimants were acquired for the purpose of widening of Elamkulam-Ponnurunni Road. The date of Section 4(1) notification is 16-1-1997. The evidence consist of oral evidence of A.Ws.1 to 8, RWs.1 to 3, Exts.A1 to A6, B1 to B19 and Ext.C1 series Commission report. The Land Acquisition Officer awarded Rs.76,800/- per Are for dry land and Rs.65,200/- per Are for wet land. The court below mainly relied on Ext.A3 sale deed to refix the land value. On the basis of Ext.A3 sale deed and other materials on record the court below fixed the land value at the rate of Rs.1,35,850/- per Are in L.A.R.No.148/1999. The land

value is fixed at Rs.2,17,360 per Are for the acquired property in L.A.R.No.149/1999.

2. After considering the documents produced by the claimant in support of his claim for enhanced compensation, the court below in paragraph 17 also considered document No.5287/95 which was relied on by the Land Acquisition Officer for fixing the land value of the property in L.A.R.No.148/1999. The court below took the view that the property covered by the document No.5287/95 is identical to the acquired property and therefore, the said basic document can be accepted for fixing the land value. Accordingly the court below fixed the same land value at the rate of Rs.1,23,500/- per Are for the acquired land and in addition to that for filling up the time lag a 10% increase also was granted and accordingly the court below fixed the land value at Rs.1,35,850/- per Are for the property acquired in L.A.R.No.148/1999.

3. Going by the reasoning adopted by the court below we are of the view that the land value fixed for the respective lands relying on Ext.A3 sale deed and the basic document is

reasonable, fair and just. Therefore, we find no reasons to interfere with the award passed by the court below.

In the result both the appeals are dismissed. It is made clear that the claimants in both cases are entitled to all statutory benefits including interest on solatium.

(KURIAN JOSEPH, JUDGE)

(HARUN-UL-RASHID, JUDGE)

ahg.

KURIAN JOSEPH &
HARUN-UL-RASHID, JJ.

L.A.A.Nos.224 & 847 of 2004

JUDGMENT

28th November, 2007